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EXAMINER

COLBERT, ELLA

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 21

Application Number: 09/183,282
Filing Date: October 30, 1998
Appellant(s): SHAH-NAZAROFF ET AL.

Melissa A. Haapala, Reg. # 47,622

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 08 October 2002

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The Appellants' statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellants' brief includes a statement that claims 1-10, 15-23, and 26-33 stand or fall together, and claims 11-14 stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

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5,945,987	Dunn	8-1999
6,157,411	Williams et al	12-2000

(10) *Grounds of Rejection*

1. The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-33 are rejected under 35 U.S.C.103(a) and claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al, hereafter Williams. This rejection is set forth in prior Office Action of 05/06/02, Paper No. 16.

Specification

2. The amendment filed 04/03/02 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 1, 6, and 28 "accessing instructions linked to the selectable identifier" and claims 11, 13, and 15 "the query interface to execute instructions linked to the identifier that require a search engine to be performed in the data engine." These claim limitations are not interpreted by the Examiner as being defined or disclosed in Applicants' Specification.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 and 15-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (US 5,945,987).

With respect to claim 1, Dunn teaches obtaining a record corresponding to a first entertainment selection (col. 2, lines 45-64); presenting a first set of entertainment system data in the obtained record corresponding to the first entertainment selection on a display device (col. 3, lines 4-12); presenting a selectable identifier corresponding to the first set of entertainment system data on the display device (col. 2, lines 57-64); receiving a selection of the selectable identifier (col. 2, lines 53-67 and col. 3, lines 1-12); accessing instructions linked to the selectable identifier (col. 3, lines 13-41); performing a search for a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data ... (col. 3, lines 13-25, col. 8, lines 43-67, col. 9, lines 1-2, fig. 5 (102, 106, & 108), & fig. 6 (110, 112, & 114)); presenting a result of the search on the display device (col. 3, lines 26-61). Dunn did not teach, performing a search for a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data when a selectable identifier is selected, but it would have been obvious to one having ordinary skill in the art at the time the invention was made, to implement the performance of a search for a second selection corresponding to the first selection in view of Dunn's teachings of a star list first being displayed and a second list of movie titles in which the actor appears being displayed (col. 3, lines 7-10), because it is well known in the art for a user to be able to select the movies, the actor/actress, and the time to have the second selection by the same actor/actress displayed. A user can display program schedule information for any of the

selected plurality of television programs in an overlaying relationship with a television program appearing on any one of the selected plurality of channels on the television.

With respect to claim 2, Dunn teaches obtaining a record comprises referencing ... the first entertainment selection in a database (col. 3, lines 20-25).

With respect to claim 3, Dunn teaches presenting the selectable identifier comprises generating a distinguishable identifier ... (col. 9, lines 3-20).

With respect to claim 4, Dunn teaches performing the search comprising searching a database for the entertainment system data related to the first set of entertainment system data (col. 8, lines 43-67 and col. 9, lines 1-2).

With respect to claim 5, Dunn did not teach, presenting the result of the search comprises displaying the result of the search in a synopsis box on the display device, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to present the result of the search by displaying the search result in a synopsis box on a display device and to modify in Dunn because such a modification would allow Dunn's entertainment system to display the summary information containing information about a movie synopsis for a program with the title highlighted in the program list. This would reduce the possibility that errors will be introduced when two programs share the same title.

With respect to claim 6, this independent claim is rejected for the similar rationale given for claim 1.

Dunn teaches, a computer-readable medium for storing a sequence of instructions to perform the steps of claim 6 (col. 4, lines 51-62).

With respect to claim 7, this dependent claim is rejected for the similar rationale given for claim 2.

With respect to claim 8, this dependent claim is rejected for the similar rationale given for claim 3.

With respect to claim 9, this dependent claim is rejected for the similar rationale given for claim 4.

With respect to claim 10, this dependent claim is rejected for the similar rationale given for claim 5.

With respect to claim 15, this independent claim is rejected for the similar rationale given for claim 1.

With respect to claim 16, Dunn teaches a search of the records of an entertainment system is data received from different sources (col. 2, lines 45-56).

With respect to claim 17, Dunn teaches entertainment selections are selected from a group comprising programs, software applications, and files (col. 2, lines 30-36 and lines 51-64 and col. 5, lines 30-35). Dunn did not teach, music selections or Internet broadcasts, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have entertainment selections to be selected from a group of music selections and Internet broadcasts and to modify in Dunn because such a modification would provide a user with a convenient way of searching for selections in a category of his /her interests from different sources.

With respect to claim 18, Dunn teaches performing the search comprises performing the search in accordance with instructions stored with the first set of entertainment system data to find other entertainment selections (col. 3, lines 13-25, col. 5, lines 43-53, and col. 8, lines 50-67).

With respect to claim 19, Dunn teaches the second set of entertainment data is related to the first set of entertainment data in that an item of data corresponding to the same trait is the same for both sets of data (col. 8, lines 60-67 and col. 9, lines 1-9).

With respect to claim 20, this dependent claim is rejected for the similar rationale given for claim 16.

With respect to claim 21, this dependent claim is rejected for the similar rationale given for claim 17.

With respect to claim 22, this dependent claim is rejected for the similar rationale given for claim 18.

With respect to claim 23, this dependent claim is rejected for the similar rationale given for claim 19.

With respect to claim 24, this dependent claim is rejected for the similar rationale given for claim 20.

With respect to claim 25, Dunn teaches the database interface unit searches the database in accordance with instructions that it retrieves from storage with the first set of entertainment system data (col. 3, lines 4-25).

With respect to claim 26, Dunn teaches non-selectable text corresponding to entertainment system data of the first entertainment selection (col. 3, lines 20-34 and col. 5, lines 43-53).

With respect to claim 27, Dunn teaches the selectable identifier is presented so that it is distinguishable from non-selectable text (col. 8, lines 43-49).

With respect to claim 28, Dunn teaches obtaining a record at an entertainment system, the record containing descriptive data describing a first program (col. 5, lines 45-63); presenting the descriptive data on a display device of the entertainment system (col. 4, lines 53-57); presenting a selectable identifier on the display device, the selectable identifier corresponding to the descriptive data (col. 6, lines 1-7 and lines 40-46); and presenting a result of the search on the display device (col. 3, lines 26-61).

Dunn did not teach, performing a search of records of the entertainment system based

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on the accessed instructions to identify a second program having descriptive data that is related to the descriptive data of the first program, but it would have been obvious to one having ordinary skill in the art at the time the invention was made, to implement the performance of a search of records of the entertainment system to identify a second program having descriptive data of the first program in view of Dunn's teachings of a star list first being displayed and a second list of movie titles in which the actor appears being displayed (col. 3, lines 7-10), because it is well known in the art for a user to be able to display program schedule information for any of the selected plurality of television programs in an overlaying relationship with a television program appearing on any one of the selected plurality of channels on the television.

With respect to claim 29, this dependent claim is rejected for the similar rationale given for claim 8.

With respect to claim 30, Dunn teaches performing the search comprises searching a database of records for programs, the records having identifiers and a data portion for each identifier, the data portion containing the descriptive data (col. 2, lines 48-62).

With respect to claim 31, this dependent claim is rejected for the similar rationale given for claim 20.

With respect to claim 32, this dependent claim is rejected for the similar rationale given for claim 22.

With respect to claim 33, the descriptive data of the second program is related to the descriptive data of the first program in that an item of data is the same in both (col. 7, lines 52-67 and col. 8, lines 43-49).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al (US 6,157,411), hereafter Williams.

With respect to claim 11, Williams teaches a data parser that formats entertainment system data ... (col. 5, lines 64-67 and col. 6, lines 1-5 and lines 37-44), a data engine, coupled to the data parser, that stores the entertainment system data into a database ... (col. 6, lines 6-14), and a query interface, coupled to the database configuring a graphical user interface (GUI) (col. 4, lines 45-67, col. 5, lines 1-3, col. 6, lines 37-67, col. 7, lines 1-35, and fig. 3 (218). Williams did not teach an identifier corresponding to the first set of entertainment system data of a first entertainment selection, the identifier being selectable to display a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data, but it would have been obvious to one having ordinary skill in the art of at the time the invention was made to have an identifier corresponding to the first set of entertainment system data of a first entertainment selection, the identifier being selectable to display a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data and to modify in Williams because such a modification would allow a user to display program schedule information for any of the selected plurality of

television programs in an overlaying relationship with a television program appearing on any one of the selected plurality of channels on the television.

With respect to claim 12, Williams teaches a user interface unit that receives an identity of the identifier selected (col. 6, lines 1-44), a database interface unit coupled to the user interface for searching the database for the second entertainment selection having the corresponding second set of entertainment system data related to the first set of entertainment system data (col. 3, lines 13-25 and col. 6, lines 15-20) and the database interface unit, for displaying the identity of the second entertainment selection ... (col. 2, lines 37-44 and lines 51-56 and col. 3, lines 14-26). Williams did not teach a synopsis box building unit, but it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a synopsis box and to display an entertainment selection and to modify in Williams because such a modification would allow for the formatting of the displayed record with information about the selection to maximize the volume of data to be displayed and improve the efficiency of the system.

With respect to claim 13, this independent claim is rejected for the similar rationale as given for claim 11.

Williams teaches, a bus (col. 3, lines 52-56), a processor coupled to the bus (col. 10, lines 15-30 and fig. 5 (502 & 512), a system control agent coupled to the bus including a data parser (col. 4, lines 41-44, col. 5, lines 62-67, col. 6, lines 1-9, and fig. 2 (204, 206, 208, & 218).

With respect to claim 14, this dependent claim is rejected for the similar rationale given for claim 12.

(12) New ground of rejection

This Examiner's Answer does not contain any new grounds of rejection.

(11) Response to Arguments

Prior to providing individual responses to each of the arguments, the Examiner notes the following: The invention as claimed in each of the pending claims is directed to a method and a system for managing entertainment system data.

The reference (Dunn) applied teaches a method and system for managing entertainment system data. The Dunn reference is classed in class 345, subclass 718, of the U.S. Patent Classification system, one of the most relevant areas for managing entertainment system data. The reference (Williams et al) applied teaches a method and system for managing entertainment system data. The Williams et al reference is classed in class 345, subclass 552, of the U.S. Patent Classification system, one of the most relevant areas for managing entertainment system data.

For all other issues please refer to the final rejection.

The following arguments are relevant:

In response to Appellants' argument no. 1, page 9, paragraph 1:

Therefore, a person of average skill of the art would understand that there is support in the specification for "accessing instructions linked to the selectable identifier" and "the query interface to execute instructions linked to the identifier that require a search to be performed in the data engine". Appellants' respectfully request the withdrawal of the objection under 35 U.S.C. §132.

In response to Appellants' argument: As per the Objection to the Specification.

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The Specification on page 13, lines 16-22, states as follows: "The first entertainment system data may include a data portion that includes instructions to be executed by the query interface 313. The instructions may include instructions for the query interface 313 to retrieve additional entertainment system data related to the data portion of the first set of entertainment system data, perform a search in the database 320 for a second entertainment selection identifier having a second set of entertainment system data related to the first set entertainment system data or other instructions." This is not interpreted by the Examiner as suggesting or disclosing "accessing instructions linked to the selectable identifier" in claims 1, 6, and 28 and "the query interface to execute instructions linked to the identifier that require a search engine to be performed in the data engine" in claims 11, 13, and 15 as amended in the Amendment of 04/03/02.

In response to Appellants' argument no. 2, page 9, paragraph 3:

On independent claim 1, the Examiner and Appellants' agree that Youman does not explicitly teach "performing a search based on the accessed instructions for a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data when a selectable identifier is selected." However, the Examiner asserts that to implement the performance of a search for a second selection corresponding to the first selection would have been obvious because it is well known in the art for a user to select a movie and then have a second selection by the same actor displayed.

In response to Appellants' argument: As per claim 1,

The Examiner does not find in the final rejection of 05/06/02 the Youman reference being used to reject claim 1 and others above, *supra*. The Dunn and Williams et al references were used to reject claims 1-33 of the final rejection of 05/06/02, *supra*.

Dunn did not teach, performing a search based on the accessed instructions for a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data when a selectable identifier is selected, but it would have been obvious to one having ordinary skill in the art at the time the invention was made, to implement the performance of a search based on the accessed instructions for a second entertainment selection having a corresponding second set of entertainment system data related to the first set of entertainment system data when a selectable identifier is selected in view of Dunn's teachings of a star list first being displayed and a second list of movie titles in which the actor appears being displayed (col. 3, lines 7-10), because it is well known in the art for the combination of a user selecting the actor/actress and looking at the movies by the actor/actress, and the time to have the second selection by the same actor/actress displayed. A user can display program schedule information for any of the selected plurality of television programs in an overlaying relationship with a television program appearing on any one of the selected plurality of channels on the television.

In response to Appellants' argument no. 3, page 10, paragraph 4 and page 11, paragraph 1:

Although Dunn searches for an actor, there is no first entertainment selection from which a second entertainment selection can be found. The Examiner has the burden of establishing a *prima facie* case of obviousness. The Examiner has failed to show any suggestion or motivation in the cited reference that makes the present invention obvious.

In response to Appellants' argument:

The Examiner interprets Dunn as teaching a first entertainment selection from which a second entertainment selection can be found in col. 3, lines 13-25 ("the search finds the program data records of the criteria-satisfying programs. The program IDs are extracted from the records and used to cross-reference via the join table to corresponding trailer IDs. The headend uses the trailer IDs to access other records which contain the trailer monikers of the preview video trailers for the video content programs that satisfy the viewer criteria."), col. 8, lines 43-67, col. 9, lines 1-2, fig. 5 (102, 106, & 108), & fig. 6 (110, 112, & 114).

In response to the argument that the Examiner failed to establish a *prima facie* case of obviousness: the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). It is assumed that which is not taught in the reference/references relies to some extent on the knowledge of persons skilled in the art to complement that which is known and the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied reference/references.

Sources of Rationale Supporting a Rejection under 35 U.S.C. 103: Rationale may be in a reference, or reasoned from common knowledge in the art, scientific principles, art- recognized equivalents, or legal precedent. See MPEP 2144.

In response to Appellants' argument no. 4, page 13, paragraph 1:

The Examiner asserts that the recitations of claim 11 would have been obvious because it would allow a user to display program schedule information in an overlaying relationship with a television program appearing on of the selected plurality of channels on the television. While the Examiner asserts that these recitations are obvious, there is no suggestion of providing such features in the cited references.

In response to Appellants' argument: As per claims 11-13 (in particular claim 11):

The basis for the Examiner's obviousness statement is found in the Dunn reference in col. 8, lines 3-11 and col. 11, lines 33-35 (refer to an overlaying relationship and displaying. It is assumed the displaying is a television program.).

In response to Appellants' argument no. 5, page 13, paragraph 4 and page 14, paragraph 1:

The Examiner has failed to present "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references and accordingly, the reference cannot render obvious Appellants' invention as claimed in claims 11-14.

In response to Appellants' argument: As per claims 11-14: The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21

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USPQ2d 1941 (Fed. Cir. 1992). It is assumed that which is not taught in the reference/references relies to some extent on the knowledge of persons skilled in the art to complement that which is known and the skilled artisan is presumed to know something more about the art than only what is disclosed in the applied reference/references.

Sources of Rationale Supporting a Rejection under 35 U.S.C. 103: Rationale may be in a reference, or reasoned from common knowledge in the art, scientific principles, art- recognized equivalents, or legal precedent. See MPEP 2144. See Appellants' argument no. 3, *supra*.

In conclusion: The failure of the Appellants' to recognize the breadth of the claims, to give proper credence to the teachings of the claim limitations in Dunn and Williams et al, and to appreciate the state of the art, creates a context for the arguments of the Appeal Brief that makes them difficult to interpret.

The Appellants' also appear to be arguing in terms of specific examples in the Specification. Such as "The first entertainment system data may include a data portion that includes instructions to be executed by query interface 313. These instructions may include instructions for the query interface to retrieve additional entertainment system data, perform a search in the database ..., or other instructions. When selected [the selectable identifier], the query interface 313 performs the instructions stored in the data portion ... The instructions may, for example, direct the query interface 313 to search the data base 320 ...". Although the claims are interpreted in light of the

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specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner carefully drew up a correspondence of each of Applicants' claimed limitations, one or more referenced passages in Dunn and Williams et al, what is well known in the art and what is obvious to one having ordinary skill in the art at the time the invention was made.

The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

2111 Claim Interpretation; Broadest Reasonable Interpretation [R-1]

>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPO 541,550-51 (CCA 1969)<

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



E. Colbert
Patent Examiner
Art Unit 3624

December 3, 2002

Conferees:

- (1) Primary Examiner
Wayne Amsbury 
- (2) Primary Examiner 
Hosain Alam



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